IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1198 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANSUKHLAL RAMSHANKAR PANDYA RENGE FOREST OFFICER (SURVEY) & 5 - Petitioner(s)

Versus

PRINCIPAL CHIEF CONSERVATOR OF FORESTS & 1 - Respondent(s)

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Appearance :

MR AMAR D MITHANI for Petitioner(s) : 1 - 6.
MR DIPAN DESAI, AGP for for Respondent(s) : 1 - 2.
RULE NOT RECD BACK for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 02/02/2006

ORAL JUDGMENT

1.The short facts of the case appear to be that the petitioners are holding the post of RFO(Survey). The case of the petitioners is that the pay-scale of RFO(Survey)should be at par with the pay-scale of RFO.

It has been submitted that similar question is considered earlier by this Court (Coram: R.A. Mehta, J.-as he then was)in its decision dated 18/20th April, 1998 in Special Civil Application No. 4824 of 1993 to 4838 of 1993, copy whereof is produced at Annexure-G at page 51, and it has been submitted that in the said decision this Court after examining the matter directed the State Government to take appropriate decision and it is further the case of the petitioners that thereafter, other RFOs(Survey), who were petitioners in the said petitions before this Court are put in the same pay-scale as that of RFO and therefore, the present petition.

2. I have heard Mr. Mithani, learned counsel appearing for the petitioners and Mr. Dipan Desai, AGP for the State.

3. It appears that on the aspect of post of the petitioners as that of RFO(Survey), there is no dispute. It also appears that this Court in the above referred Judgment dated 18/20th April, 1998, did consider the question of parity of RFO(Survey) with RFO and thereafter, the Government reconsidered the matter. It also appears from the pay-slip produced at page 67 that one of the RFO Shri C. B. Bangal is placed in the pay-scale of Rs. 5500-175-9000 and therefore, if Government has taken a decision after the direction given by this Court in its above referred judgment for considering the issue of parity of the pay-scale of the RFO(Survey) at par with RFO, in normal circumstances, all RFOs(Survey) may be entitled to the benefit, but it appears that in the present case, the State Government

considered the matter on the ground that those who were petitioners before the Court in the above referred judgment are to be conferred the benefit.

4. In the matter of pay-scale, if two employees are holding same designation of the post in all respects and the post is the same, i.e. RFO(Survey), it may not be open for the Government to discriminate amongst two officers holding the same pay-scale unless any extraordinary circumstances are in existence. Merely because, in respect of some of the petitioners, direction is given for considering the parity of pay-scale of the post of RFO(Survey) with RFO, it cannot be said that only those persons who preferred the petition would be entitled to the benefit in a matter of same pay-scale for the same post. I am inclined to make aforesaid observations because for the same post there has to be same pay-scale in the set-up of the Government.

5. However, as in case of the petitioners, uptil now, no decision is taken, I find that the case of the petitioners is also required to be considered for equivalence of the pay-scale of RFO(Survey) at par with the pay-scale of RFO as ordered by this Court earlier in its Judgment dated 18/20th April, 1998 passed in Special Civil Application No. 4824 of 1993.

6. Hence, it is directed that the State Government will consider the matter for parity of pay-scale of RFO(Survey) held by the petitioners with RFO, at par and in line of the decision given by this Court dated

18/20th April, 1998 in Special Civil Application No. 4824 of 1993 and to examine the matter as to whether the petitioners would be entitled for the same pay-scale of RFO, though the petitioner is holding the post of RFO(Survey) and the decision may also be taken for entitlement of the petitioners from a particular date as may be examined by the State Government considering the facts and circumstances of the case as proper and in accordance with law. The decision shall be taken after giving opportunity of hearing to the petitioners. Such an exercise shall be completed within a period of six months from the receipt of the order of this Court.

7. Rule partly made absolute to the aforesaid extent. Considering the facts and circumstances, there shall be no orders as to cost.

(JAYANT PATEL, J.)

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